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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Draft resolution submitted by the Chairman

Situation of human rights in Afghanistan

The General Assembly,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights, 1/ the International Covenants on Human Rights 2/ and accepted humanitarian rules, as set out in the Geneva Conventions of 12 August 1949 3/ and the Additional Protocols thereto, of 1977, 4/

Aware of its responsibility to promote and encourage respect for human rights and fundamental freedoms for all and resolved to remain vigilant with regard to violations of human rights wherever they occur,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have freely undertaken under the various international instruments,

Recalling Economic and Social Council resolution 1984/37 of 24 May 1984, in which the Council requested the Chairman of the Commission on Human Rights to

1/ Resolution 217 A (III).

2/ Resolution 2200 A (XXI), annex.

3/ United Nations, Treaty Series, vol. 75, Nos. 970-973.

4/ Ibid., vol. 1125, Nos. 17512 and 17513.

appoint a special rapporteur to examine the situation of human rights in Afghanistan, with a view to formulating proposals that could contribute to ensuring full protection of the human rights of the inhabitants of the country before, during and after the withdrawal of all foreign forces,

Recalling also its resolution 48/152 of 20 December 1993 and all its other relevant resolutions, as well as the resolutions of the Commission on Human Rights and the decisions of the Economic and Social Council,

Taking note, in particular, of Commission on Human Rights resolution 1994/84 of 9 March 1994, 5/ in which the Commission decided to extend the mandate of the Special Rapporteur on the situation of human rights in Afghanistan for one year and to request him to report to the General Assembly at its forty-ninth session, and of Economic and Social Council decision 1994/268 of 25 July 1994, in which the Council approved the Commission's decision,

Recalling its resolution 48/152 of 20 December 1993, and noting with concern that in 1994 the situation of human rights in Afghanistan has further deteriorated owing to the outbreak of large-scale fighting,

Recalling the Convention on Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 14 November 1970, 6/

Noting that, following the demise of the former Afghan Government, a transitional Islamic State of Afghanistan was established,

Noting with deep concern that in spite of the efforts and initiatives taken by the Government of Afghanistan towards ensuring complete peace and stability, a situation of armed confrontation, affecting mainly the civilian population, which is still the target of indiscriminate military attacks by rival groups and of food blockades, continues to exist in parts of the territory of Afghanistan, and in particular in Kabul, and has also caused a dramatic rise in the number of persons displaced inside the country,

Concerned that the prevailing situation in the country is affecting the security of members of all ethnic and religious groups, including minorities,

Concerned in particular that armed confrontation in Afghanistan has brought about a situation where a unified judicial system cannot be established throughout the country,

Noting with concern reports of violations of rights enshrined in the International Covenant on Civil and Political Rights, 2/ such as the right to

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5/ Official Records of the Economic and Social Council, 1994, Supplement No. 4 (E/1994/24), chap. II, sect. A.

6/ United Nations Educational, Scientific and Cultural Organization, General Conference, Records of the Sixteenth Session, vol. 1, p. 135.

life, to liberty and security of person and to freedom of opinion, expression and association,

Deeply concerned about the recurring violations of human rights specific to or primarily directed against women by some members of warring factions in Afghanistan, and about the lack of respect towards them and their physical integrity and dignity, as reported by the Special Rapporteur,

Concerned also at reports of detainees who are being held for political reasons by rival groups, in particular in prisons run by political parties,

Noting with concern that weapons and other military material are acquired by some factions through the production and sale of illicit drugs,

Noting that much remains to be done for the treatment of prisoners to be in conformity with the provisions of the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto, of 1977,

Deeply concerned at the situation of refugees and internally displaced persons, which has worsened in 1994 owing to the prevailing situation in Afghanistan, and expressing the hope that conditions in the country will allow an early resumption of the repatriation of those still in exile,

Noting with appreciation the efforts undertaken by some neighbouring countries to provide assistance to Afghan refugees pending their repatriation, despite diminishing financial and other resources,

Aware that peace and security in Afghanistan are prerequisites for the successful repatriation of about four million refugees and, in particular, for the achievement of a comprehensive political solution and the establishment of a freely and democratically elected government, the end of armed confrontation in Kabul and in some provinces, the clearance of minefields that have been laid in many parts of the country, the restoration of an effective authority in the whole country and the reconstruction of the economy,

Affirming that the declaration of general amnesty issued by the Islamic State of Afghanistan should be applied in a strictly non-discriminatory manner and that prisoners detained by rival groups without trial on Afghan territory should be released unconditionally,

Commending the activity carried out by the Office of the United Nations High Commissioner for Refugees and the International Committee of the Red Cross in cooperation with the Afghan authorities, as well as non-governmental organizations, in favour of the people of Afghanistan,

Taking note with appreciation of the report of the Special Rapporteur 7/ and of the conclusions and recommendations contained therein,

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7/ A/49/650, annex.

Commending the efforts by the Special Rapporteur to implement Commission on Human Rights resolution 1994/45 of 4 March 1994 5/ and the Vienna Declaration and Programme of Action, 8/ adopted by the World Conference on Human Rights on 25 June 1993, by including in his report information on human rights violations affecting women,

Noting that the Special Rapporteur visited four provinces in Afghanistan, while regretting that he was unable to visit Kabul owing to the continuous shooting of rockets and artillery on the capital,

1. Welcomes the cooperation that authorities in Afghanistan have extended to the Special Rapporteur on the situation of human rights in Afghanistan, in view of the circumstances prevailing in the country;

2. Also welcomes the cooperation that the authorities in Afghanistan have extended, in particular to the Coordinator for Humanitarian and Economic Assistance Programmes Relating to Afghanistan and to international organizations, such as the specialized agencies, the Office of the United Nations High Commissioner for Refugees and the International Committee of the Red Cross;

3. Urges all the Afghan parties to undertake, where appropriate under the auspices of the United Nations, all possible efforts in order to achieve a comprehensive political solution, which is the only way to bring about peace and the full restoration of human rights in Afghanistan, based on the free exercise of the right to self-determination by the people, including free and genuine elections, the cessation of armed confrontation and the creation of conditions that will permit the free return, as soon as possible, of about four million refugees to their homeland in safety and dignity, whenever they wish, and the full enjoyment of human rights and fundamental freedoms by all Afghans;

4. Welcomes all the efforts towards reaching a comprehensive, peaceful political solution to the conflict in Afghanistan, and in particular the efforts of the United Nations Special Mission to Afghanistan established in pursuance of General Assembly resolution 48/208 of 21 December 1993, with the mandate to canvass a broad spectrum of the leaders of Afghanistan, soliciting their views on how the United Nations can best assist Afghanistan in facilitating national rapprochement and reconstruction, and to submit its findings, conclusions and recommendations to the Secretary-General for appropriate action;

5. Notes with appreciation the cooperation the Afghan people and leaders have provided to the Special Mission and urges all the Afghan parties to continue to work with the Special Mission with a view to achieving a comprehensive solution to the crisis in Afghanistan;

6. Urges both the Special Mission and the Special Rapporteur to exchange relevant information and to consult and cooperate with each other;

8/ Report of the World Conference on Human Rights, Vienna, 14-25 June 1993 (A/CONF.157/24 (Part I)), chap. III.

7. Urges all the parties to carry out as soon as possible a disarmament process, which constitutes a prerequisite of a solution to the conflict, as decided also in the Afghan Peace Accord signed by the Afghan parties at Islamabad on 7 March 1993; 9/

8. Invites the United Nations to offer, upon the request of the Government of Afghanistan and with due regard to the Afghan tradition, advisory services and technical assistance concerning the drafting of a constitution, which should embody internationally accepted human rights principles, and the holding of direct elections;

9. Recognizes that the promotion and protection of human rights should be an essential element in the achievement of a comprehensive solution to the crisis in Afghanistan, and calls upon all the Afghan parties to respect human rights;

10. Urges all the Afghan parties to respect accepted humanitarian rules, as set in the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto, of 1977, to halt the use of weapons against the civilian population, to protect all civilians from acts of reprisal and violence, including ill-treatment, torture and summary executions, and to expedite the simultaneous release of prisoners wherever they may be held;

11. Urges the Afghan authorities to provide sufficient and effective remedies to the victims of grave human rights violations and to bring their perpetrators to trial in accordance with internationally accepted standards;

12. Strongly urges all the Afghan parties to ensure respect for the human rights and fundamental freedoms of women, so that their honour and dignity may be ensured in accordance with the provisions of international human rights instruments and humanitarian law;

13. Calls upon all States and parties concerned to make all efforts for the realization of its decision 47/428 of 16 December 1992, entitled "Prisoners of war and persons missing as a result of war in Afghanistan", and calls upon them to make all efforts for the immediate release of all prisoners of war, and in particular of former Soviet prisoners of war, as provided for under article 118 of the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949, 10/ considering that the hostilities in which the former Soviet Union was involved have legally and effectively ended, as well as for the tracing of the many Afghans still missing as the result of the war;

14. Urges the unconditional release of all prisoners detained without trial on Afghan territory by rival groups, and calls for the abolition of prisons run by political parties;

9/ S/25435, annex I.

10/ United Nations, Treaty Series, vol. 75, No. 972.

15. Calls upon the authorities in Afghanistan to investigate thoroughly the fate of those persons who have disappeared during the conflict, to apply amnesty decrees equally to all detainees, to reduce the period during which prisoners await trial, to treat all prisoners, especially those awaiting trial or those in custody in juvenile rehabilitation centres, in accordance with the Standard Minimum Rules for the Treatment of Prisoners, 11/ adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and to apply to all suspected or convicted persons article 14, paragraphs 3 (d) and 5 to 7 of the International Covenant on Civil and Political Rights;

16. Stresses the need for humanitarian aid deliveries to be effected through unhindered access to all main routes to Kabul;

17. Appeals to all Member States to provide adequate humanitarian assistance to Afghanistan in order to contribute to the alleviation of the suffering of refugees and especially to the improvement of the living conditions of women and children, widows and orphans, and calls upon neighbouring countries to continue providing assistance to Afghan refugees;

18. Urges the international community to sustain the increasing financial efforts undertaken by humanitarian organizations, such as the Office of the United Nations High Commissioner for Refugees and other organizations of the United Nations, and non-governmental organizations, to assist the Afghan refugees;

19. Also urges the United Nations High Commissioner for Refugees to continue to assist the Afghan refugees in the neighbouring countries until their voluntary repatriation can be effected, without prejudice to their security and to the enjoyment of their basic economic and social rights;

20. Urgently appeals to all Member States and humanitarian organizations to continue to promote the implementation of the projects envisaged by the Coordinator for Humanitarian and Economic Assistance Programmes Relating to Afghanistan and the programmes of the United Nations High Commissioner for Refugees, especially the pilot projects for the repatriation of refugees;

21. Reiterates its appeals to all Member States, humanitarian organizations and all parties concerned to cooperate fully on the subject of mine detection and clearance, in order to facilitate the return of refugees and displaced persons to their homes in safety and dignity;

22. Strongly urges all the parties to the conflict to undertake all necessary measures to ensure the safety of the personnel of humanitarian organizations involved in the implementation of the United Nations humanitarian and economic assistance programmes relating to Afghanistan and programmes of the United Nations High Commissioner for Refugees, in order to avoid further

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11/ See Human Rights, A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1).

deplorable incidents such as those which have caused loss of life among that personnel;

23. Invites the United Nations Educational, Scientific and Cultural Organization to entrust the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation with the mandate, upon the invitation and with the cooperation of the Afghan authorities, with examining ways and means to restore the Kabul Museum, including through the tracing of the country's stolen articles, to propose measures aimed at preventing the illicit import, export and transfer of ownership of artefacts belonging to the Kabul Museum and to report thereon to the Executive Board of the United Nations Educational, Scientific and Cultural Organization;

24. Recommends the translation of the report of the Special Rapporteur into the Dari and Pashtu languages;

25. Urges the authorities in Afghanistan to continue to extend their full cooperation to the Commission on Human Rights and its Special Rapporteur;

26. Calls upon the Special Rapporteur to continue to gather information about specific instances of grave human rights violations and to broaden and intensify efforts in addressing human rights violations that are specific to or primarily directed against women, in order to assure the effective protection of their human rights;

27. Requests the Secretary-General to give all necessary assistance to the Special Rapporteur;

28. Decides to keep under consideration at its fiftieth session the situation of human rights in Afghanistan, in the light of additional elements provided by the Commission on Human Rights and the Economic and Social Council.